

IN-HOME PERSONAL CARE SERVICES

I. INTRODUCTION

These standards address the necessary criteria which must be met to obtain a certificate of need (CON) to provide in-home personal care services. In-home personal care services are provided directly or indirectly by licensed behavioral health agencies, county commissions on aging, and private non-profit and for profit entities.

These standards are not applicable for the provision of in-home personal care services provided by a member of the recipient's family.

Certain providers are exempt from certificate of need review pursuant to a January 30, 1997, Kanawha County Circuit Court order. These providers include the fourteen (14) comprehensive community behavioral health centers and four (4) core agencies.

Minimum criteria for review:

W. Va. Code §16-2D-6 and 9 contain the statutory review criteria.

Recommendations for state regulatory, planning and payor agencies:

One aspect of the analysis is a coordinated review by regulatory, planning, and payor agencies of state government. The Health Care Authority (HCA), in reviewing CON applications, takes into consideration the programmatic and fiscal plans of the Bureau for Medical Services, the Bureau for Senior Services, and other appropriate state agencies. Each agency is asked for a recommendation on each application. The recommendations are based on the respective agency's programmatic and/or fiscal plan. All recommendations will be taken into consideration, however, the HCA has final approval on all applications.

II. DEFINITIONS

In-home personal care services are services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease.

In-home personal care services, are defined as:

Hands-on, medically oriented activities and supportive tasks ordered by a physician, to be implemented according to a nursing plan of care which is developed and supervised by a registered nurse. These services, which are

provided within the recipient's residence, enable people to meet their physical needs and be treated by their physicians as outpatients, rather than on an inpatient or institutional basis. Services include those activities related to personal hygiene, feeding, nutrition, environmental support functions, and health related tasks. Services must be:

- (1) prescribed by a physician in accordance with a written plan of care (POC);
- (2) necessary to the long term maintenance of the recipient's health and safety;
- (3) provided within the recipient's place of residence;
- (4) provided pursuant to a POC developed and periodically monitored by a registered nurse; and,
- (5) rendered by an individual who has met the basic training requirements and is not a member of the recipient's family (unless waived by the Bureau of Medical Services).

"Environmental support" (sometimes referred to as instrumental activities of daily living) includes housecleaning; laundry; ironing and mending; bed changing/making; dishwashing; grocery shopping; bill paying; essential errands such as obtaining medication.

Service Area: Applicants must delineate their proposed service area by documenting the expected area in which individuals will be served. The minimum service area will be a county. A new CON will be required to expand services into a new county or counties.

III. INTRODUCTION TO NEED METHODOLOGY

All CON applicants must demonstrate with specificity: (1) there is an unmet need for the proposed service; (2) the proposed service will not have a negative effect on the community by significantly limiting the availability and viability of other services or providers; and (3) the proposed services are the most cost effective alternative.

Applicants must delineate their proposed service area by documenting the expected area in which individuals will be served.

Applicants must document expected utilization for the services proposed to be provided for the population within the proposed service area.

After establishing expected utilization, applicants must document the existing providers within the service area and the extent to which the need is being met by existing providers in the service area.

| COUNTY | WV POP. 0-16 | WV POP 16-64 | WV POP 65+ | Total WV POP (B+C+D) | 65+ Pop (E*80%*30%) (1) | Medicaid Population (F * 17%) (2) | Non- Medicaid Population (F-G) | Potential Need at 33.1% Penetration Rate (3) | **Home & Comm. Based WPR-FY98 (4) | Potential Unmet Need (I - J) |
|------------|-----------------|-----------------|---------------|----------------------------|-------------------------------|--|---|--|---|---------------------------------------|
| Barbour | 3700 | 9484 | 2515 | 15699 | 604 | 103 | 501 | 166 | 34 | 132 |
| Berkeley | 14664 | 37618 | 6971 | 59253 | 1673 | 284 | 1389 | 460 | 44 | 416 |
| Boone | 6524 | 16095 | 3251 | 25870 | 780 | 133 | 648 | 214 | 47 | 167 |
| Braxton | 3126 | 7645 | 2227 | 12998 | 534 | 91 | 444 | 147 | 91 | 56 |
| Brooke | 5682 | 16885 | 4425 | 26992 | 1062 | 181 | 881 | 292 | 45 | 247 |
| Cabell | 19816 | 61164 | 15847 | 96827 | 3803 | 647 | 3157 | 1045 | 126 | 919 |
| Calhoun | 2017 | 4625 | 1243 | 7885 | 298 | 51 | 248 | 82 | 70 | 11 |
| Clay | 2809 | 5892 | 1282 | 9983 | 308 | 52 | 255 | 85 | 62 | 22 |
| Doddridge | 1751 | 4109 | 1134 | 6994 | 272 | 46 | 226 | 75 | 47 | 27 |
| Fayette | 11273 | 28490 | 8189 | 47952 | 1965 | 334 | 1631 | 540 | 0 | 540 |
| Gilmer | 1676 | 4744 | 1249 | 7669 | 300 | 51 | 249 | 82 | 32 | 50 |
| Grant | 2464 | 6419 | 1545 | 10428 | 371 | 63 | 308 | 102 | 50 | 52 |
| Greenbrier | 7759 | 21067 | 5867 | 34693 | 1408 | 239 | 1169 | 387 | 42 | 345 |
| Hampshire | 4136 | 10101 | 2261 | 16498 | 543 | 92 | 450 | 149 | 32 | 117 |
| Hancock | 7510 | 22090 | 5633 | 35233 | 1352 | 230 | 1122 | 371 | 0 | 371 |
| Hardy | 2469 | 6824 | 1684 | 10977 | 404 | 69 | 335 | 111 | 19 | 92 |
| Harrison | 15923 | 41153 | 12295 | 69371 | 2951 | 502 | 2449 | 811 | 100 | 711 |
| Jackson | 6349 | 16109 | 3480 | 25938 | 835 | 142 | 693 | 229 | 58 | 172 |
| Jefferson | 8641 | 23182 | 4103 | 35926 | 985 | 167 | 817 | 271 | 50 | 221 |
| Kanawha | 45425 | 129632 | 32562 | 207619 | 7815 | 1329 | 6486 | 2147 | 162 | 1985 |
| Lewis | 3897 | 10487 | 2839 | 17223 | 681 | 116 | 566 | 187 | 62 | 125 |
| Lincoln | 5593 | 13113 | 2676 | 21382 | 642 | 109 | 533 | 176 | 137 | 40 |
| Logan | 11098 | 26512 | 5422 | 43032 | 1301 | 221 | 1080 | 358 | 39 | 319 |
| McDowell | 9453 | 20573 | 5207 | 35233 | 1250 | 212 | 1037 | 343 | 59 | 284 |
| Marion | 12125 | 34669 | 10455 | 57249 | 2509 | 427 | 2083 | 689 | 49 | 640 |
| Marshall | 8540 | 23127 | 5689 | 37356 | 1365 | 232 | 1133 | 375 | 10 | 365 |
| Mason | 6110 | 15508 | 3560 | 25178 | 854 | 145 | 709 | 235 | 79 | 156 |
| Mercer | 14554 | 39642 | 10784 | 64980 | 2588 | 440 | 2148 | 711 | 96 | 615 |
| Mineral | 6258 | 16521 | 3918 | 26697 | 940 | 160 | 780 | 258 | 33 | 225 |
| Mingo | 9609 | 20627 | 3503 | 33739 | 841 | 143 | 698 | 231 | 86 | 145 |
| Monongalia | 14155 | 53111 | 8243 | 75509 | 1978 | 336 | 1642 | 544 | 55 | 489 |
| Monroe | 2847 | 7459 | 2100 | 12406 | 504 | 86 | 418 | 138 | 39 | 99 |
| Morgan | 2605 | 7484 | 2039 | 12128 | 489 | 83 | 406 | 134 | 16 | 119 |
| Nicholas | 6885 | 16160 | 3730 | 26775 | 895 | 152 | 743 | 246 | 73 | 172 |
| Ohio | 10518 | 30735 | 9618 | 50871 | 2308 | 392 | 1916 | 634 | 78 | 556 |
| Pendleton | 1826 | 4837 | 1391 | 8054 | 334 | 57 | 277 | 92 | 47 | 45 |
| Pleasants | 1803 | 4647 | 1096 | 7546 | 263 | 45 | 218 | 72 | 14 | 58 |
| Pocahontas | 1975 | 5335 | 1698 | 9008 | 408 | 69 | 338 | 112 | 43 | 69 |
| Preston | 7404 | 17560 | 4073 | 29037 | 978 | 166 | 811 | 269 | 49 | 220 |
| Putnam | 10780 | 27340 | 4715 | 42835 | 1132 | 192 | 939 | 311 | 67 | 244 |
| Raleigh | 18620 | 46442 | 11757 | 76819 | 2822 | 480 | 2342 | 775 | 101 | 674 |
| Randolph | 6278 | 17137 | 4388 | 27803 | 1053 | 179 | 874 | 289 | 101 | 188 |
| Ritchie | 2352 | 6108 | 1773 | 10233 | 426 | 72 | 353 | 117 | 56 | 61 |
| Roane | 3803 | 8973 | 2344 | 15120 | 563 | 96 | 467 | 155 | 29 | 126 |
| Summers | 3127 | 8591 | 2486 | 14204 | 597 | 101 | 495 | 164 | 99 | 65 |
| Taylor | 3610 | 9086 | 2448 | 15144 | 588 | 100 | 488 | 161 | 51 | 110 |
| Tucker | 1718 | 4717 | 1293 | 7728 | 310 | 53 | 258 | 85 | 39 | 46 |
| Tyler | 2343 | 5944 | 1509 | 9796 | 362 | 62 | 301 | 99 | 38 | 62 |
| Upshur | 5453 | 14048 | 3366 | 22867 | 808 | 137 | 671 | 222 | 54 | 168 |

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|---------|-----------------|-----------------|---------------|----------------------------|-------------------------------|--|---|--|---|---------------------------------------|
| Wayne | 9985 | 25933 | 5718 | 41636 | 1372 | 233 | 1139 | 377 | 330 | 47 |
| Webster | 2728 | 6339 | 1662 | 10729 | 399 | 68 | 331 | 110 | 91 | 19 |
| Wetzel | 4623 | 11779 | 2856 | 19258 | 685 | 117 | 569 | 188 | 36 | 153 |
| Wirt | 1304 | 3143 | 745 | 5192 | 179 | 30 | 148 | 49 | 34 | 15 |
| Wood | 20059 | 53983 | 12873 | 86915 | 3090 | 525 | 2564 | 849 | 114 | 735 |
| Wyoming | 7709 | 18121 | 3160 | 28990 | 758 | 129 | 629 | 208 | 85 | 124 |
| Total | 415461 | 1109119 | 268897 | 1793477 | 64535 | 10971 | 53564 | 17730 | 3498 | 14232 |

**Home & Community Based Waiver Program Recipients – Fiscal Year 1998 (5)

(1) U.S. General Accounting Office: 80% of the 65+population live at home and 30% of those have deficits in at least 3 ADL's

(2) Bureau for Medical Services (BMS): approximately 17% of the WV population is Medicaid eligible.

(3) BMS/Bureau for Senior Services: Currently 14453 individuals are eligible for In-home Personal Care Services, 4778 of these eligible individuals are receiving services; $4778 / 14453 = 33.1\%$ penetration rate.

(4) 3498 served in Home & Community Based Waiver Program for year ended 6-3-98. Bureau of Medical Services

IV. QUALITY

All applicants shall document that they will be in compliance with applicable Medicaid regulations regarding pre-admission screening, nursing review of the pre-admission screening, nursing plan of care, personal care daily plan, and personal care daily log, whether or not the applicant proposes to seek Medicaid certification.

All applicants must assure that there is adequate staff in the number and qualifications for the number of recipients served. Staff must meet the following qualifications:

Administrative: Any staff member who performs administrative duties related to personal care services must possess experience, education, and training necessary to discharge the function of his/her position.

Nursing: Any staff member who develops, reviews, monitors and/or oversees nursing plans of care must be currently licensed as a registered nurse.

Direct Care: Any staff member who provides hands-on care or other services to a recipient in his/her place of residence, according to an approved nursing care plan, must be certified by an approved training program.

Basic and Annual Training Requirements: Each provider agency shall have an approved basic training curriculum which prepares non-licensed staff for direct care and service. Each such provider training curriculum shall be reviewed and approved by the Bureau for Medical Services or its designee to assure that it meets the basic training requirements specified in the next

session. Providers are responsible for providing an additional eight hours of in-service training annually.

Basic Training Requirements: New non-licensed direct care staff who have no training or experience must receive 8 hours of basic training before rendering care or service independently in the client home setting. Within 12 months of the beginning date of employment, the above-identified individuals must receive at least 24 hours of additional training, for a total of 32 hours, covering the ten content areas listed below:

1. Orientation to the agency, community, and services;
2. Working with specific populations including the elderly; behaviorally handicapped; disabilities of adults/children;
3. Body mechanics;
4. Personal care skills including, but not limited to: bathing, grooming, feeding, toileting, transferring, positioning, ambulation, and vital signs;
5. Care of the home and personal belongings;
6. Safety and accident prevention;
7. Food, nutrition, and meal preparation;
8. Occupational Safety and Health Administration standards related to blood-borne pathogens;
9. Cardiopulmonary Resuscitation; and,
10. First Aid Training.

Substitution of the Basic Training Requirement: The requirements for non-licensed direct care staff may be waived if they meet the following substitution requirements:

1. Documentation of successful completion of one of the following related training courses: certified nurse aide; home health aide; homemaker aide or other institutional or home-based skill course which has been reviewed and approved as comparable by licensed personnel of the provider agency;
2. One year of experience with the type of population being served by the provider; or,
3. A competency demonstration review conducted by the provider's licensed staff, a portion of which must be conducted in a supervised home-based setting.

The provider must verify that the first two requirements have been met through written reference checks and documentation from the training course provider.

Annual In-service Training Requirements: There is no substitution of the eight-hour annual in-service requirement. In meeting this requirement, providers shall consider the following:

1. Each individual providing personal care services is provided with additional training to develop specialized skills or to review and enhance skills or information learned in basic training.
2. On-the-job training shall be provided as needed to instruct the caregiver in specific skills or techniques for individual clients.
3. Assistance in resolving problems in particular case situations may also be used as training opportunities.
4. Criteria and methodology for evaluating the overall job performance of each person providing personal care services shall be established. The supervising registered nurse or family based care specialist shall be responsible for performance evaluations of non-licensed direct care staff and shall consider evaluation outcomes when developing in-service training for all staff or those individuals with skill deficits.

All documented evidence of staff qualifications, such as licenses, transcripts, certificates, references, etc., shall be maintained on file by the applicant. The applicant shall have a review process to ensure that employees possess the minimum qualifications required for the position. Minimum credentials must be verified for new employees, and on an annual basis to assure credentials remain valid.

V. CONTINUUM OF CARE

All applicants shall have written practices and procedures designed to ensure that the appropriate monitoring of recipients will occur, and that follow-up care/referral is available in the event any medical complications arise which are beyond the ability of the applicant to treat.

The applicant shall document the development of procedures to ensure that the referring physician or the recipient's primary care physician are apprised of services provided in a timely manner.

VI. COST

No certificate of need shall be granted for in-home personal care services, unless the applicant demonstrates that the project is financially feasible. No applications for these services shall be deemed consistent with the State Health Plan

unless the projected costs are consistent with allowable costs provided for in the pertinent Medicaid reimbursement statutes and regulations.

Additionally, pursuant to W. Va. Code §16-2D-6(g) “No person or entity may provide personal care services to be billed for Medicaid reimbursement without demonstrating that the provision of the personal care service will result in no additional fiscal burden to the state.” Therefore, the applicant must present documentation from the Bureau for Medical Services that the proposal will not increase the fiscal burden to the state.

The applicant must document a policy regarding charity recipients. The policy must address the issues of a sliding fee scale and/or free care to the extent that such care is financially feasible.

The applicant must demonstrate compliance with W. Va. Code §16-5F-1 et seq., “The Health Care Financial Disclosure Act,” and 65 C.S.R. 13, the “Financial Disclosure Rule”.

The applicant must demonstrate the financial feasibility of the project. The factors to be considered must include:

1. Utilization by payer classification;
Current and projected rates;
Statements of (a) revenue and expenses, (b) balance sheets, (c) statements of changes in fund balances, and (d) statements of cash flow for each of the last two fiscal years;
Audited financial statements, if prepared, must be submitted; and,
10-K Reports, if required to be submitted to the Securities and Exchange Commission by either the applicant or a related entity, must be submitted for the preceding three years.
2. A preliminary financial feasibility study which must, at a minimum, include: (a) revenue and expenses, (b) balance sheets, (c) statements of changes in fund balances, and (d) statements of cash flow for each of the last two fiscal years, the current fiscal year, and future fiscal years prior to the project’s implementation, and the first three years after the project’s implementation. The financial feasibility study must also include all assumptions used, including projected payer mix, charges and/or revenue for each category of payer.
3. Sources of revenue/reimbursement by payer classification. The applicant must demonstrate the proposal is consistent with applicable payers’ fiscal plans.

4. If the ongoing financial feasibility of the proposed project depends in part on funding from State programs the applicant must either: (a) describe why the proposed project can reasonably expect to receive such financial support in the future or (b) describe where alternative sources of funding will come from to support the project.

Decisions approving a CON application, based on financial projections which do not include any reimbursement from the Bureau for Medical Services will be **CONDITIONED** upon the applicant not seeking BMS reimbursement. Applicants who propose to seek BMS reimbursement shall undergo further CON review as a substantial change to an approved project.

VII. ACCESSIBILITY

Preference will be given to applicants who demonstrate intent to provide services, without regard to the recipient's ability to pay.

VIII. OTHER

An applicant for or provider of in-home personal care services must provide additional information, as may be requested by the Authority, including demographics data, financial data, and clinical data for recipients receiving these services.